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Dated: 05/16/08

Electronic Signature for Michael B. Stewart: /Michael B. Stewart/

Docket No.: 00-VE22.03D CON1  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Patrick E. White et al.

Application No.: 10/807,215

Confirmation No.: 3300

Filed: March 22, 2004

Art Unit: 2616

For: TELEPHONE SERVICE VIA INTERNET  
PROTOCOL NETWORKING

Examiner: A. A. Riyami

**AMENDMENT AFTER FINAL ACTION UNDER 37 C.F.R. 1.116**

MS AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**INTRODUCTORY COMMENTS**

In response to the Office Action dated March 19, 2008, finally rejecting claims 33-54, please amend the above-identified U.S. patent application as follows:

**Amendments to the Claims** are reflected in the listing of claims which begins on page 2 of this paper.

**Remarks/Arguments** begin on page 6 of this paper.

**AMENDMENTS TO THE CLAIMS**

This listing of claims replaces all prior listings of claims in this application.

1-32. (Cancelled)

33. (Previously Presented) A method comprising:

- detecting an off-hook condition of a calling station;
- subsequent to detecting the off-hook condition, receiving dialed digits from the calling station, the dialed digits indicating a call request and a telephone number of a called party;
- providing a request to a routing database, the request including at least a portion of the telephone number of the called party;
- receiving in response to the request an identity of a gateway to the called party;
- sending a first signaling message over a packet-switched data network to the gateway using the identity of the gateway, the first signaling message including the telephone number of the called party and a telephone number of the calling station;
- receiving the first signaling message at the gateway;
- formulating an SS7 signaling message in response to the first signaling message, the SS7 signaling message including the telephone number of the calling station and the telephone number of the called party;
- sending the SS7 signaling message from the gateway over a connection to a public switched telephone network (PSTN) system;
- receiving at the gateway over the connection to the PSTN system an indication that the called party is at least one of busy or available;
- when the calling party is indicated busy, sending a second signaling message from the gateway over the packet-switched data network indicating the called party is busy;
- when the called party is indicated available, sending a third signaling message from the gateway over the packet-switched data network indicating that the called party is available;
- recording billing information associated with the call request.

34. (Previously Presented) The method of claim 33, wherein the dialed digits include a unique identifier indicating that the call request be routed over the packet-switched data network.
35. (Previously Presented) The method of claim 33, wherein the unique identifier is one of a prefix code, an off-hook condition or a PIN number.
36. (Previously Presented) The method of claim 33, wherein the billing information is associated with the calling station.
37. (Previously Presented) The method of claim 33, wherein the billing information includes billing on at least one of a flat rate basis or a timed basis.
38. (Previously Presented) The method of claim 33, wherein the packet-switched network includes the Internet.
39. (Previously Presented) The method of claim 33, wherein the PSTN is part of a Local exchange Carrier network.
40. (Previously Presented) The method of claim 33, wherein the identity of the gateway includes an IP address of the gateway.
41. (Previously Presented) The method of claim 33, further comprising:  
subsequent to detecting the off-hook condition and prior to receiving dialed digits from the calling station, providing dial tone to the calling station.
42. (Previously Presented) The method of claim 33, further comprising:  
receiving the request at an IP address database;  
translating the at least a portion of the telephone number of the called party into an IP address of the gateway;

providing the IP address of the gateway to the called party as the identity of the gateway.

43. (Previously Presented) A method comprising:

detecting an off-hook condition of a calling station;

subsequent to detecting the off-hook condition, providing dial tone to the calling station;

receiving dialed digits from the calling station, the dialed digits indicating a call request and a telephone number of a called party;

providing a request to a routing database, the request including the telephone number of the called party;

receiving in response to the request an address of a called party computing device associated with the telephone number of the called party;

sending a first signaling message over a packet-switched data network to the called party using the address of the called party computing device, the first signaling message including the telephone number of the called party and a telephone number of the calling station;

establishing a voice communication between the calling station and the called party via the packet-switched data network.

44. (Previously Presented) The method of claim 43, further comprising:

recording billing information associated with the call request.

45. (Previously Presented) The method of claim 44, wherein the billing information is associated with the calling station.

46. (Previously Presented) The method of claim 44, wherein the billing information includes billing on at least one of a flat rate basis or a timed basis.

47. (Previously Presented) The method of claim 43, wherein the dialed digits include a unique identifier indicating that the call request be routed over the packet-switched data network.

48. (Previously Presented) The method of claim 47, wherein the unique identifier is one of a prefix code, an off-hook condition or a PIN number.
49. (Previously Presented) The method of claim 43, wherein the packet-switched network includes the Internet.
50. (Previously Presented) The method of claim 43, wherein the address of the called party computing device includes an IP address.
51. (Previously Presented) The method of claim 43, wherein the routing database includes a Domain Name System (DNS) service.
52. (Previously Presented) The method of claim 43, further comprising:  
receiving an indication that the called party is at least one of busy or available;  
when the calling party is indicated busy, sending a second signaling message over the packet-switched data network indicating the called party is busy;  
when the called party is indicated available, sending a third signaling message over the packet-switched network indicating the called party is available.
53. (Previously Presented) The method of claim 43, further comprising:  
receiving the request at the routing database;  
translating the at least a portion of the telephone number of the called party into an IP address of the called party computing device;  
providing the IP address of the called party computing device as the address of the called party computing device.
54. (Previously Presented) The method of claim 33, further comprising:  
establishing a voice communication between the calling station and the called party via the packet-switched data network.

### **REMARKS**

Claims 33-54 are pending with claims 33 and 43 being independent. The Examiner has rejected claims 33-54 under U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,285,745 ("Bartholomew"). Bartholomew is being cited by the Examiner under new grounds of rejection. In view of the following arguments, all claims are believed to be in condition for allowance over the references of record. Therefore, this response is believed to be a complete response to the Office Action. However, Applicants reserve the right to set forth further arguments supporting the patentability of their claims, including grounds of rejection and/or the separate patentability of the dependent claims not explicitly addressed herein, in future papers.<sup>1</sup> Further, for any instances in which the Examiner took Official Notice in the Office Action, Applicants expressly do not acquiesce to the taking of Official Notice, and respectfully request that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03.

#### **Independent Claim 33**

Independent claim 33 is directed to a method that includes providing a request to a routing database and receiving in response to the request, an identity of a gateway to the called party. In addition, over the connection to the PSTN system, an indication that the called party is at least one of busy or available is received at the gateway. The method further includes:

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<sup>1</sup> As Applicants' remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicants' silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references, assertions as to dependent claims, etc.) is not a concession by Applicants that such assertions are accurate or such requirements have been met, and Applicants reserve the right to analyze and dispute such assertions/requirements in the future.

when the calling party is indicated busy, sending a second signaling message from the gateway over the packet-switched data network indicating the called party is busy;

when the called party is indicated available, sending a third signaling message from the gateway over the packet-switched data network indicating that the called party is available. *Emphasis Added.*

Applicants respectfully submit that the Bartholomew reference does not teach or suggest at least the above-recited features of independent claim 33.

Rather, Bartholomew discloses a system and method for providing communication between voice mailboxes in a multiple mailbox system using connectionless packet delivery through established networking arrangements. (Bartholomew, col. 1, lines 19-22). The system includes a public switched network in communication with an SS7 network to control the signaling for the switched network. The switched telephone network consists of a series of central offices that are referred to as signaling points (e.g., SPs or SSPs) in reference to the SS7 network. (Bartholomew, col. 10, lines 5-13; Figure 1). The SS7 network includes a series of signal transfer points (STPs) that are connected to the SPs in the network. (Bartholomew, col. 10, lines 41-44; Figure 1).

A simplified diagram of such a system is shown in Figure 4 of Bartholomew, wherein the network further includes a voicemail system associated with each switching network. Specifically, Figure 4 illustrates two SSPs 310 and 312, which include end office switching systems 314 and 316. The end office 314 represents an end office of one operating company, while end office 316 represents an end office of a different operating company. Each switching system is provided with a centralized message service or voicemail system (374 and 376). (Bartholomew, col. 22, lines 16-25; lines 50-52; Figure 4). In operation, a caller at station 362 connected to central office 314 makes a call to a remote called party at a station 370 at a central office 316. In this case, the

common channel signaling system 320 (i.e., the SS7 network) determines that the call cannot be completed because of a busy or no answer situation. The attempt to establish a voice connection between the two stations through the SS7 network is terminated and the caller is directed to the voicemail system 374 associated with the originating central office 314. The voice processing unit associated with the voice mail system 374 informs the caller that the line is busy or that there is no answer and inquires as to whether the caller would like to leave a message. (Bartholomew, col. 24, lines 55-67; Figure 4). *Emphasis Added*. Thus, when a call attempt in Bartholomew is unable to connect, the call is terminated through the SS7 network. Further, the caller is directed to the voicemail system associated with the originating central office. Thus, there is no further communication over the network.

In view of the foregoing, Bartholomew cannot possibly teach or suggest a method wherein “when the calling party is indicated busy, sending a second signaling message from the gateway over the packet-switched data network indicating the called party is busy,” as recited in claim 33. Moreover, because Bartholomew is directed to a system for providing communication between voice mail systems, the condition on which a called party is available is not even contemplated. Therefore, Bartholomew does not teach or suggest a method that includes “sending a third signaling message from the gateway over the packet-switched data network indicating that the called party is available,” are further recited by claim 33. For at least these reasons, independent claim 33 (and dependent claims 34-42 and 54, which depend therefrom) is patentable over Bartholomew and in condition for allowance.

Independent Claim 43



Independent claim 43 is directed to a method that includes providing a request to a routing database. The method further includes:

receiving in response to the request an address of a called party computing device associated with the telephone number of the called party; and  
establishing a voice communication between the calling station and the called party via the packet-switched data network. *Emphasis Added.*

Contrary to the Examiner's assertion (Office Action, page 5), Bartholomew does not teach or suggest at least the above-recited features of claim 43.

Columns 27 and 28 of Bartholomew (which were cited by the Examiner for allegedly teaching the above-recited features), set forth details associated with a connectionless packet delivery service in connection with two public switched telephone networks (PSTNs) employing voice mail systems as shown in Figure 8. Additionally, the operation of a service in which a voice mail subscriber in one network desires to send a voice message to a subscriber in another network is described. This service includes dialing a directory number associated with the calling party's voice mail network. In response to dialing the directory number, the calling party's voice mail network prompts the caller to enter a voice message. Upon completing and accepting the entered voice message, a processing unit within the calling party's voice mail network instructs the caller regarding the procedure for keying in the directory number of the destination and to depress a specific key to send the message. The message, containing the directory numbers for both the intended recipient and the sending party along with routing and handling instructions, is sent to an internet interface. The internet interface acts in a router fashion in accordance with the handling instructions, which direct the addressee telephone network to retrieve from its appropriate database

the identity of the addressee and to verify its subscription to a mailbox. The message is then stored in the designated addressee mailbox. In other words, the voice message containing all relevant data is transferred from one voicemail system to another through the internet and respective internet interfaces. However, none of this information is sent in response to a request. Therefore, Bartholomew cannot teach or suggest “receiving in response to the request an address of a called party computing device associated with the telephone number of the called party,” as recited in claim 43.

Moreover, as described above with respect to claim 33, Bartholomew is directed to a system for providing communication between voice mail systems. Therefore, the condition on which communication is established between parties is not contemplated. Accordingly, Bartholomew cannot possibly teach or suggest “establishing a voice communication between the calling station and the called party via the packet-switched data network,” as further recited in claim 43. For at least these reasons, independent claim 43 (and dependent claims 44-53, which depend therefrom) is patentable over Bartholomew and in condition for allowance.

Dependent Claims 47, 48 and 53

All dependent claims depend either directly or indirectly from one of claims 33 or 43. Therefore, claims 34-42 and 44-54 are in condition for allowance at least because they are dependent from one of the independent claims 33 or 43. Nevertheless, these dependent claims also recite independently patentable subject matter.

For example, claims 47 and 48 recite, “wherein the dialed digits include a unique identifier indicating that the call request be routed over the packet-switched data network” and “wherein the unique identifier is one of a prefix code, an off-hook condition or a PIN number,” respectively.

Bartholomew discloses routing and handling information included within a voice message, but fails to teach or suggest “wherein the dialed digits include a unique identifier indicating that the call request be routed over the packet-switched data network,” or “wherein the unique identifier is one of a prefix code, an off-hook condition or a PIN number.” (Emphasis added.) Thus, it is respectfully submitted that claims 47 and 48 are patentably distinct from the reference of record.

As another example, claim 53 recites a method, comprising:

- receiving the request at the routing database;
- translating the at least a portion of the telephone number of the called party into an IP address of the called party computing device;
- providing the IP address of the called party computing device as the address of the called party computing device.

As set forth above, Bartholomew discloses routing and handling information included within a voice message, but fails to teach or suggest any of the features recited above. Thus, it is respectfully submitted that claim 43 is patentably distinct from the reference of record as well.

**CONCLUSION**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. 65632-0187 from which the undersigned is authorized to draw. To the extent necessary, a petition for extension of time under 37 C.F.R. § 1.136 is hereby made, the fee for which should be charged to such deposit account number.

Dated: May 16, 2008

Respectfully submitted,

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